

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

UNITED STATES OF AMERICA,

VS.

CRIMINAL ACTION NO. 3:07CR158-P-A

RANDY ROY,

DEFENDANT.

ORDER CONTINUING TRIAL

This matter comes before the court upon Defendant's fifth Motion for Continuance [35]. After due consideration of the motion, the court finds as follows, to-wit:

Trial is currently set for November 3, 2008. The Government and the defendant have entered into a Pre-Trial Diversion Agreement. Defense counsel requests a continuance to allow additional time for the U.S. Probation Office to determine if the defendant is eligible for pretrial diversion. The Government has no objection to the continuance.

The above circumstances enable the Court to exclude, pursuant to 18 U.S.C. section 3161(h)(8)(A), the period of delay from November 3, 2008 until the new trial date to be set in this matter. The time is excludable under subsection (h)(8)(A) because, given the circumstances described above, a continuance is necessary to afford the defendant additional time to be considered for pretrial diversion. As such, the ends of justice served by the granting of this continuance outweigh the best interests of the public and the defendant in a speedy trial. Furthermore, these circumstances also allow the Court to exclude the period of delay from August 25, 2008 to the new trial date to be set pursuant to § 3161(h)(1)(C) ("delay resulting from a deferral of prosecution pursuant to section 2902 of title 28, United States Code.")

IT IS THEREFORE ORDERED AND ADJUDGED that:

(1) Defendant's Motion for Continuance [31] is **GRANTED**;

(2) Trial of this matter is continued until Monday, January 26, 2009 at 9:00 a.m. in the United States Courthouse in Greenville, Mississippi;

(3) The delay from November 3, 2008 to January 26, 2009 is excluded from Speedy Trial Act considerations as set out above;

(4) The deadline for filing pretrial motions is January 5, 2009; and

(5) The deadline for submitting a plea agreement is January 12, 2009.

SO ORDERED this the 28th day of October, A.D., 2008.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE